

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

WILSON GUN WORKS AND DESIGN, LLC)	
)	
Petitioner,)	
)	
vs.)	
)	
STEVE ALBRO)	
DIRECTOR OF INDUSTRY OPERATIONS)	
BUREAU OF ALCOHOL, TOBACCO,)	
FIREARMS AND EXPLOSIVES)	
DEPARTMENT OF JUSTICE)	
)	
Respondent.)	

PETITION FOR JUDICIAL REVIEW

STATEMENT OF JURISDICTION

1. This is a petition for de novo judicial review of the revocation of a license as a dealer in firearms other than destructive devices pursuant to the provisions of 18 U.S.C. § 923(f)(3).

2. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 as it arises under the Constitution and laws of the United States.

3. Venue is proper in the Western District of North Carolina because Petitioner is an entity whose office and principal place of business is located in Transylvania County, North Carolina, and it actually conducts business in such county pursuant to a duly issued Federal Firearms License.

IDENTIFICATION OF PARTIES

4. Petitioner is a limited liability company organized and existing under the laws of the State of North Carolina whose office and principal place of business is located in Transylvania County, North Carolina, and it actually conducts business in such county pursuant to a duly issued Federal Firearms License. Petitioner is actually engaged in the manufacture and sale of custom long-range hunting and target rifles.

5. Respondent is the Director of Industry Operations for the Charlotte Field Division of the Bureau of Alcohol, Tobacco, Firearms & Explosives (hereinafter "ATF").

STATEMENT OF FACTS

6. On or about March 16, 2022, ATF issued a Notice of Revocation and/or Fines of License, ATF Form 4500, to the Petitioner via certified mail. Petitioner timely requested a hearing to review that Notice pursuant to 18 U.S.C. § 923(f) (2).. Petitioner requested a Pre-Haring Resolution on or about March 25, 2022, and such request was denied. A Request for a Hearing was made on or about April 1, 2022. The hearing was conducted on July 26, 2022, at the ATF Asheville Field Office.

7. The hearing was conducted by ATF Director of Industry Operations (DIO) Stephen B. Albro, Charlotte Field Division.

8. On or about September 27, 2022, Respondent issued a Final Notice of Denial of Application or Revocation of Firearms License (hereinafter "Final Notice") to Petitioner.

9. Prior to the Notice of Revocation of License, ATF adopted a National Federal Firearms Petitioner Adverse Action Policy" (ATF B 5370.2)(4/19/04), which states in part:

A national policy for administering adverse actions is necessary to promote consistent and fair resolution of violations. Revocation should be undertaken for willful violations of the GCA or its regulations that could affect public safety or hamper the Bureau's ability to reduce violent crime.

COUNT FOR RELIEF

10. Paragraphs 1-9 are incorporated herein by reference.

11. Petitioner was inspected by Industry Operations Investigator Shawn Cook and cited for three (3) violations on March 11, 2022: Such violations consisted of the following:

- A. Failure on one (1) occasion to conduct a NICS background check or obtain a NICS alternative permit in violation of 18 U.S.C. § 922(t)(1) and 27 C.F.R. § 478.102(a);
- B. Willfully transferring a handgun to a non-licensee who resided outside the State of North Carolina in violation of 18 U.S.C. § 923(g)(1)(A) and 27 C.F.R. § 478.99(a); and
- C. Willfully failed to report multiple sales or other dispositions of pistols or revolvers in violation of 18 U.S.C. § 923(g)(3)(A) and 27 C.F.R. § 478.126a.

12. Petitioner denies that any alleged violations for which it was cited were willful; nor were they done intentionally and purposely and with the intent to do something the law forbids or with the bad purpose to disobey or to disregard the law.

13. None of Petitioner's alleged conduct affected public safety or hampered ATF's ability to reduce violent crime.

14. The actions of Respondent were arbitrary, capricious, and an abuse of discretion.

WHEREFORE, Petitioner respectfully prays:

1. That a judgment be entered determining that Respondent erred in revoking Petitioner's license and that such revocation was not authorized by controlling statutes and regulations;

2. That a judgment be entered ordering Respondent to withdraw the revocation;

3. That Petitioner be awarded such attorney fees and costs pursuant to 18 U.S.C. § 924(d)(2)(B) and 28 U.S.C. § 2412), as might be appropriate; and

4. That he have such other and further relief as to the court might seem just and proper.

Respectfully submitted, this 4th day of November 2022.

/S/ JAMES BARRETT WILSON

JAMES BARRET WILSON, JR.
Attorney for Plaintiff
North Carolina State Bar #: 18752
411 Waughtown Street
Winston-Salem, North Carolina 27127
336-773-0059(Office)
336-773-0061(Fax)
james@jbwilsonlaw.com
Attorney for Petitioner